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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Intersessional seminar on the protection of the family: role of the family in supporting the protection and promotion of the human rights of older persons

Report of the United Nations High Commissioner for Human Rights

Summary

The present report, mandated by the Human Rights Council in its resolution 35/13, summarizes the presentations made and debates held during the one-day intersessional seminar on the impact of the implementation by States of their obligations under relevant provisions of international human rights law with regard to the protection of the family on the role of the family in supporting the protection and promotion of the human rights of older persons.

In the report, the United Nations High Commissioner for Human Rights reflects the contributions made by experts, States, national human rights institutions and civil society organizations during the intersessional seminar held on 11 June 2018, including challenges and best practices examined as well as the conclusions and recommendations identified.

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I. Introduction

1. In its resolution 35/13, the Human Rights Council decided to convene, with the support of the Office of the United Nations High Commissioner for Human Rights (OHCHR), a one-day intersessional seminar on the impact of the implementation by States of their obligations under relevant provisions of international human rights law with regard to the protection of the family, on the role of the family in supporting the protection and promotion of the human rights of older persons, and to discuss challenges and best practices in that regard, with the participation of Member States and other relevant stakeholders, including national human rights institutions, academic experts and civil society organizations.

2. The intersessional seminar took place in Geneva on 11 June 2018 and was attended by representatives of Member States, national human rights institutions, United Nations entities, civil society and academia. The present report contains a summary of the proceedings, and the conclusions and recommendations emerging from the seminar. The agenda for the seminar and the list of participants are available on the OHCHR website.[1] The seminar was webcast on UN Web TV.[2]

II. Opening of the intersessional seminar

3. Speaking on behalf of a cross-regional core group of main sponsors of Human Rights Council resolution 35/13, the Permanent Representative of Egypt to the United Nations Office and other international organizations in Geneva, Alaa Youssef, said that the family was an undisputable social, cultural, moral and religious value. In accordance with international human rights law, States had to provide the widest possible support and protection to families, so as to allow them to fully assume their role in the community and to provide a conducive environment for the growth and well-being of their members. In addition, families played a key role in fostering social development, cohesion and integration, and in the effective empowerment of women. Families had a primary responsibility for the nurturing, guidance and protection of children, for the full and harmonious development of their personality. Older persons could make important contributions to economic and social development, with their experience, skills and knowledge. Older persons, particularly older women, also played a vital role within families as caregivers for spouses, grandchildren and other relatives, which often remained unrecognized and undervalued. In addition, older persons contributed to strengthening social capital by actively participating in community and civic life.

4. The Chief of the Human Rights and Economic and Social Issues Section of OHCHR, Lene Wendland, delivered the opening statement on behalf of the United Nations Deputy High Commissioner for Human Rights, in which she recalled that the Universal Declaration of Human Rights recognized the family as the natural and fundamental group unit of society. Society and the State should protect the family, as a strong force for social cohesion and integration, intergenerational solidarity and social development. With rapidly ageing populations in countries all around the world, families provided most of the care of older persons, especially women. Changing living arrangements and lifestyles were making

[1] See www.ohchr.org/EN/HRBodies/HRC/Pages/IntersessionalSeminarProtectionFamilyHROlderPersons.aspx.

[2] Opening and session 1: http://webtv.un.org/meetings-events/treaty-bodies/watch/opening-session-1-intersessional-seminar-on-family-older-persons-human-rights-council/5796144743001/?term=&lan=original;
session 2: http://webtv.un.org/meetings-events/treaty-bodies/watch/session-2-intersessional-seminar-on-family-older-persons-human-rights-council/5796150471001/?term=&lan=original;
session 3: http://webtv.un.org/meetings-events/treaty-bodies/watch/session-3-intersessional-seminar-on-family-and-older-persons-human-rights-council/5796499906001/?term=&lan=original;
session 4: http://webtv.un.org/meetings-events/treaty-bodies/watch/session-4-closing-intersessional-seminar-on-family-and-older-persons-human-rights-council/5796504080001/?term=&lan=original.

it harder for family members to provide care for their older family members. Stress, and being overburdened, combined with a lack of awareness about rights, could sometimes lead to abuse of older persons. Therefore, there was a need for new ways to support family caregivers, and to provide alternatives to family care. Furthermore, there were significant normative gaps in existing international human rights frameworks regarding the protection of older persons. National standards were weak in regard to age discrimination, an adequate standard of living, support for autonomy, participation in decision-making, and freedom from violence, abuse and neglect. Notwithstanding, Ms. Wendland noted that there had been encouraging developments, with older persons increasingly integrated in the human rights agenda as well as in the 2030 Agenda for Sustainable Development, and recognition of the potential of older persons to make significant contributions to families, communities and development.

III. Summary of proceedings

A. International framework for the protection of the family and human rights of older persons

5. The team leader for economic, social and cultural rights at the Human Rights and Economic and Social Issues Section of OHCHR, Rio Hada, moderated the first session, which was focused on the legal and policy framework at the international, regional and national levels for the protection of the family and the human rights of older persons. He asked panellists to reflect on the obligations and other key commitments that States had, under international and regional human rights instruments as well as under national laws, to protect the human rights of older persons and to support the role of the family towards that end.

6. The Independent Expert on the enjoyment of all human rights by older persons, Rosa Kornfeld-Matte, described the steady increase of the older population worldwide, and the fact that that population cohort itself was ageing. She warned of the profound effects of such a demographic transition on societies, at all levels, which was a growing concern for human rights. It was essential to analyse those phenomena in a comprehensive way, taking into account the whole range of human rights. Older persons were not a homogeneous group or a single category, and every person had different needs and interests. In addition, old age represented a social construction based on the custom and perception of the role that particular individuals played in their communities.

7. Often it was families who provided the front-line support for their older members, and who contributed to the realization of their right to an adequate standard of living, including the right to adequate food, clothing, housing, water and sanitation. Nevertheless, older persons were at risk of neglect within their families, as well as of physical, psychological, emotional, sexual or financial abuse. From a family perspective, an important concern was cash transfer and monetary assistance programmes, where the concept of household units did not take into account intra-household dynamics and did not recognize potential discrimination in distribution within the home.

8. Although family care was the preferred option for many older persons, there was a need for effective support systems for informal caregivers. Such systems should include respite, needs assessments, information and counselling services, self-help groups, hands-on training in caregiving, and the dissemination of information on health protection measures. They should also take into consideration the physical and mental health of caregivers, the need for weekend breaks, and integrated care planning for seniors and families. It was particularly important that social security schemes cover caregivers, since they were often women who did not receive any income or training, as the assistance provided by informal caregivers did not replace the obligation of States. National policies should help older persons to continue living in their homes for as long as possible through improvements to the housing and by adapting housing for access and use by older persons.

9. She noted that currently there was no universal human rights instrument specifically devoted to older persons, apart from implicit references and rare explicit references in some

human rights treaties. At the regional level, the Inter-American Convention on Protecting the Human Rights of Older Persons obligated the States parties to prevent all forms of violence within the family or household and to ensure treatment with dignity for older persons. The United Nations Principles for Older Persons, of 1991, contained a section specifically devoted to care, in which it was stated that older persons should benefit from family care in accordance with the cultural values in each society. Nevertheless, the absence of a comprehensive and integrated international instrument had made it difficult to specify the obligations of States towards older persons. In addition, existing mechanisms and procedures for monitoring human rights instruments generally neglected older persons.

10. The Deputy Chair of the Council of the Federation Committee for Agricultural and Food Policy and Environmental Management, of the Russian Federation, Irina Gekht, described the constitutional mandates of her country to support the family and older persons, including State obligations to develop a system of social services, benefits and other social guarantees. Although there was no specific international agreement for older persons, the general international human rights treaties were applicable. For older persons, the family was one of the most important spheres in which to realize their needs. Nevertheless, physical, psychological and economic abuse sometimes occurred within the family. The failure of family members to fulfil their responsibilities with respect to nutrition was punishable by the criminal law. Identifying human rights violations in the family was difficult, since the family was a closed cell within society, where there were legislative limits on State intervention. In addition, the narrowing of social contacts, and older persons' lack of knowledge about their rights, reduced opportunities to receive outside assistance.

11. With the transition to a new economy, the intellectual resources, knowledge and experience of older persons had acquired special value, and the views on the role of older persons in the socioeconomic system were changing. Policies were aimed not only at preserving the quality of life and dignity of older persons, but also at creating the conditions for leading an active social and economic life. For example, the Russian Federation had adopted a strategy of action for older citizens aimed at increasing their life expectancy and quality of life and supporting active ageing. The strategy addressed the need to overcome negative stereotypes and manifestations of violence and discrimination against older persons, and to create a favourable environment and economic conditions that were conducive to active longevity and integration in society. It also included the establishment of geriatric services, and needs assessment systems for care, as well as training of older persons in physical exercise and sports.

12. Measures at the federal and regional levels aimed at protecting the rights of older persons in the family included generating awareness about the rights of older persons, counselling families caring for older relatives on social, medical, psychological and legal issues, setting up telephone hotlines for older persons subjected to domestic violence, establishing shelters for temporary stays, training lawyers to specialize in law relating to older persons, and supporting non-governmental organizations (NGOs) assisting older persons. Other initiatives were aimed at including older persons in the development process and promoting active ageing, for example through continuing education.

13. Despite the results achieved, differences remained in the quality of life of the older population, both between regions and between urban and rural areas. It would be necessary to continue working on realizing the rights of older persons in line with obligations arising from international instruments, and taking into account the best international experiences. Family policies should prioritize the preservation of traditional family values and family life, the revival and preservation of spiritual and moral traditions in family relations and family education, and the creation of conditions for ensuring family well-being and responsible parenthood.

14. The Special Envoy of the Global Alliance of National Human Rights Institutions, Florence Simbiri-Jaoko, described the expected demographic changes in Africa, which included population growth, accelerated urbanization, decrease in fertility and mortality rates, increase in life expectancy, and ageing of the population. In that context, the African Charter on Human and Peoples' Rights recognized the rights of older persons to special measures of protection. The same Charter recognized the duty of individuals to preserve the

harmonious development of the family and work for the cohesion of and respect for the family, to respect their parents at all times, and to maintain them in case of need.

15. The region had made further progress following the adoption, in 2016, of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa, by the Assembly of the African Union. The Protocol called upon Governments to institute urgent measures aimed at guaranteeing the rights of older persons. The rights identified included access to regular income, equitable distribution of resources, employment opportunities, access to appropriate health services, access to basic social services, access to good care and support, recognition of the contribution by older persons to the care of persons with HIV/AIDS and orphans, respect and recognition for older persons' role and contribution in society, and recognition of older persons' needs in emergency situations.

16. Notwithstanding the progress made, the Protocol had so far been signed by four countries and had not entered into force. And yet, it was an opportunity for African States to engage in a more robust discussion at the United Nations level on the need for an international legal framework. It offered the opportunity to highlight how States could nurture families as critical links to protection and respect of the rights of older persons. National human rights institutions could advocate for States to sign and ratify the Protocol, and could use it as a framework for measuring compliance by States that had adopted the Protocol. Legislation should allow national human rights institutions to monitor family care, since limited access to justice for those cared for by families meant that, many times, abuses went unreported. There was a need to move from a narrative of care to a rights-based approach, guided by human rights standards.

17. In the interactive dialogue, representatives of Brazil, China, Côte d'Ivoire, Ecuador, Mexico, Nigeria, the Russian Federation, Saudi Arabia, Uruguay, the European Union, AGE Platform Europe, Alliance Defending Freedom International, HelpAge International and Human Rights Watch made interventions. In the interventions, it was stressed that the family was the primary cell and fundamental basis of society, covering all its dimensions, and that it was a guarantor of all rights, cultural heritage, social cohesion and identity. Speakers also emphasized the primary responsibility of States to ensure the enjoyment of all human rights of individual family members, and to ensure there was no discrimination within the family, including multiple discrimination and gender inequality. In increasingly ageing societies, States must promote the independence and autonomy of older persons and protect them from all forms of violence and abuse.

18. Some speakers affirmed that the family was the natural place for older persons to live, and stressed the responsibility of the family in providing the conditions to allow older persons the enjoyment of their rights, including autonomy and independence. Others emphasized that, although family members played a fundamental role in caring for older persons, family support was not the only form of care, and there was a need to recognize the different forms of family in different cultural, social and political contexts. Some States said that the international community should pay greater attention to the family in its role in development as well as in protecting its members. In many interventions, speakers noted the normative gaps in the current international human rights framework concerning the protection of older persons, which required a dedicated binding instrument to be developed. Finally, some States described their national legal, institutional and policy frameworks, including systems of community-based care and support services.

19. In response, Ms. Simbiri-Jaoko said that many States in Africa were making progress in the area of the rights of older persons, and African States should seize the moment and ratify their protocol. Meanwhile, in the absence of a binding international instrument, national human rights institutions were already receiving complaints and reports of violations of human rights of older persons, and were providing remedies for them and acting as a link to the authorities, within their existing mandates. They also included the rights of older persons in their periodic reports to different national, regional and international mechanisms.

20. Ms. Gekht said that States needed to promote and support the participation of older persons in various social activities and movements, including through State provision of

grants, volunteer programmes and infrastructure. It was important for the State, in addressing the problems of unemployment and isolation, to promote the participation of older persons in social life, since having the feeling of involvement was very important for older persons' well-being.

21. Ms. Kornfeld-Matte emphasized that the only binding instrument in force was the Inter-American Convention on Protecting the Human Rights of Older Persons, which had been ratified by several countries. She said that States could do more to support formal caregivers to complement informal family caregivers, who were often in situations of stress and provided care without respite. In addition, States could train informal caregivers, and create day centres for older persons to attend at certain times, as a way to avoid institutionalization in long-stay facilities. Finally, States should take advantage of the possibility of involving older persons in university networks for older persons, which would greatly help their socialization.

B. The role of the family in providing long-term care and support to older persons

22. In his introduction, the moderator, John Beard, Director of the Ageing and Life Course Department of the World Health Organization, said that the lack of support for family caregivers resulted in unnecessary burdens and in inadequate care for older persons and violations of their rights. Girls and women were often in charge of family care, which sometimes limited their possibilities for study or of having equal access to employment. Furthermore, in some countries, older women with dementia suffered accusations of witchery, and forced institutionalization. He noted several innovative developments, such as community-based self-help groups, and the creation of care economies that produced jobs for younger people while they cared for older persons. However, stewardship by governments was necessary for the success of any such initiatives. The moderator asked the panellists to explore the challenges faced by older persons in accessing long-term care and by the families supporting them, and to describe what responsibilities States and other stakeholders had in order to address those challenges while reinforcing the centrality of family.

23. Mona Ibrahem Isa Ahmed, of the Ministry of Administrative Development, Labour and Social Affairs of Qatar, underscored the importance of the family in caring for its members as an integrated unit. A cohesive family could make significant contributions in providing support and care to the elderly. The Constitution of Qatar recognized that family was the basis of the society and was founded on religion, ethics and patriotism. In addition, the Constitution mandated the law to prescribe adequate means to protect the family, support its structure, strengthen its ties, and protect maternity, childhood and old age. Governments needed to support and encourage programmes and initiatives to support older persons, including for formal care for the elderly, to complement the support provided by members of the family.

24. Among the types of families in Qatar, extended families consisted of grandparents, mothers, fathers, children and grandchildren. Such a family structure gave older persons the opportunity for natural interaction with children and other relatives, and prevented them from suffering from isolation. A study had shown that over one half of older women, and one third of older men, lived in extended families. In addition, one poll on the social and environmental challenges faced by beneficiaries of the social security system had shown that less than 3 per cent of the population regarded caring for older persons in the family as troublesome.

25. Ms. Ahmed described policies aimed at supporting families and older persons, within government agencies such as the Ministry of Administrative Development, Labour and Social Affairs. The policies included a service that provided access for older persons to public offices, and hotlines for communication and coordination with social researchers, who were able to conduct case research or provide assistance through any of the services provided by the Ministry. Another project facilitated home care by means of specialized

nursing teams with rehabilitation staff, which conducted round-the-clock home visits to older patients.

26. The experience and research had proved that the best option for older persons was to live with family members and not in isolation, especially for older persons with disabilities. Home care reduced the feeling of isolation and psychological depression. Still, social changes, and the reduction of social links, posed challenges for older persons. As older persons' interactions became increasingly limited to closer relatives, it was the role of family to help them link with the wider society, for example by visiting heritage sites and participating in neighborhoods councils for older persons established by the State. Families should participate in those initiatives by the State aimed at promoting the involvement of older persons in society, and encourage older persons to participate, taking into account the valuable experience they had accumulated over the years. Finally, older persons should have access to social and legal services.

27. Xenia Scheil-Adlung, a health and long-term care policy adviser, described the global deficits regarding coverage and access to long-term care for older persons. Studies had shown that almost half of the world population that was aged over 65 lived in countries without any right to long-term care. Over 46 per cent of the world population lived in countries where policies demanded poverty as an eligibility requirement to receive long-term care. Just over 5 per cent of the world population aged over 65 lived in countries with universal long-term care systems. The population aged over 65 suffered exclusion from long-term care due to deficits in public expenditure. The unaffordability of those services implied the potential for impoverishment for many older persons in countries without universal coverage. In addition, significant workforce shortages in long-term care excluded people from accessing quality services. She noted that there was a gap of over 13 million long-term care workers globally.

28. There was therefore a need to define the role of family carers, while analysing who was filling the workforce gap to make services available and affordable. Studies had concluded that only 20 per cent of the long-term care workforce was composed of paid formal workers. The rest were unpaid informal workers; mostly female family carers aged over 40, caring for one or two persons. In high-income countries, family members provided up to 90 per cent of care, exceeding by far the number of formal care workers. In low- and middle-income countries the number of family carers was even higher, due to the lack of formal long-term care workers and infrastructure.

29. The high levels of reliance on family care had implications. For family carers, caregiving was highly demanding physically and mentally, sometimes resulting in burnout and ill-health due to lack of training and decent working conditions. It could result in loss of income or social protection, when it necessitated ending or reducing paid employment and no compensation was available. Work-family conflicts and risk of job loss could happen when providing care in addition to carrying out paid employment. For long-term care recipients, it implied an increased level of dependence due to physical and mental deterioration in the absence of quality services, high costs and potential impoverishment due to lack of income from family carers, and increased risks of abuse and violence due to family carers being overburdened as well as to lack of training. There were socioeconomic implications too, such as foregone economic growth and higher unemployment, higher public expenditure, increased income and gender inequities, and failure to comply with labour regulations.

30. Policy considerations to address those issues included public investment in creating jobs for formal long-term care workers, which would have multiplier effects in productive sectors, reduce unemployment and create economic growth and development. Similarly, investing in support for informal carers would avoid negative socioeconomic impacts. While the policy priority should be for home-based care, there was a need to ensure the rights of older persons by providing adequate access to long-term care, including universal coverage through fair financing mechanisms; and making quality services available by increasing the formal long-term care workforce. Moreover, it was necessary to establish support measures, such as funding for the delivery of long-term care services, cash benefits or income replacement, and social protection coverage, including leave time from care duties, training, and being replaced during vacations.

31. Nena Georgantzi, a human rights officer from AGE Platform Europe, focused on the challenges faced by older persons with regard to the right to self-determination and the right to the exercise of their legal capacity, in the context of care, and the link between those challenges and the role of the family. She affirmed that, due to ageist attitudes, there was a perception of older persons as being unable to make decisions, or else disregard for their will and preferences in all aspects of their lives. Families played a pivotal role in the care and support of many older persons, although not all older persons had families, or lived close to them. Therefore, it was crucial to consider the wide variety of experiences and living circumstances of older persons that did not necessarily take place in the context of the family.

32. Many situations illustrated the importance of increasing awareness of older persons as rights holders. For example, there were repeated cases of lack of informed consent within nursing homes and institutions. A report that monitored care homes in Europe had concluded that forcing older persons into institutions without their consent was a common practice. In some countries, families were encouraged to put older persons under legal guardianship in order to have access to care homes. Regarding control of their finances, even though older persons were entitled to pensions, many were not able to collect them themselves and depended on a relative to do so, which sometimes led to financial abuse.

33. In countries with high rates of unemployment, some families lived on the pensions of older persons, and many older persons had been put in informal care at home because their families could no longer afford the expenses of formal care. Such situations exposed them to risks, such as inadequate care, abuse and limited autonomy. In some cases, there was a potential conflict between what was best for the family and the wishes of the older person. For example, for the sake of safety, families sometimes limited older persons from participating in an active social life. Families were under pressure, especially as States shifted responsibility for caring for older persons to families and individuals and cut down on benefits and services. In most situations, families considered that they were doing what was best for older persons, which in fact could amount to a violation of their right to self-determination.

34. She noted the absence of adequate normative standards to prevent such situations. Ageism was a pervasive form of discrimination, with age stereotypes prevailing and going unchallenged, and injustices being overlooked or considered as normal. It entailed a risk of applying human rights in divergent, unfair ways in old age, instead of on an equal basis with others. The Open-ended Working Group on Ageing had warned that, although all human beings were born free and equal, the enjoyment of all human rights diminished with age, owing to negative prejudices and stereotypes. States had a duty to support families that provided informal care, and older persons. It would be important to recognize that older persons were rights holders on an equal basis with others, and to establish clear State obligations through a binding international convention.

35. In the interactive dialogue that followed, representatives of Lebanon, Qatar and the Russian Federation, of the Holy See, and of La manif pour tous, HelpAge International and Human Rights Watch, took the floor. Interventions by States reaffirmed the family as the basic core of a person's life and of society. Speakers emphasized that a strong family must enjoy support from the State to protect the rights of older persons, including through economic incentives and specific fiscal and job policies. One delegation stressed the need to create an enabling support environment where older persons would become agents of development. One State warned about the need to take into account the social and historical background of each State when designing policies such as long-term support systems. Another delegation pointed out that the migration of young people from some developing countries weakened the role of the traditional family as a support for older persons, putting their rights at risk. Some speakers described their national normative frameworks around the family and its members.

36. NGOs noted that the wishes and choices of older persons did not necessarily align with those of their family members, and that the absence of clear standards on the right to live independently and be included in the community caused risks of violations. Governments had an obligation to protect the rights of older persons on an equal basis with the rights of others in those contexts. Not every older person lived with, or chose to live

with family members. Despite this, States often transferred their human rights obligations towards older persons onto family members in relation to care and support, including through maintenance or filial piety laws, which increased the dependency of older persons and denied their autonomy. It was necessary to move away from an approach that excluded older persons from their communities and denied them their autonomy and independence, and instead move towards establishing and strengthening care and support services where older persons had the right, and access, to individualized support that enabled them to control their lives.

37. In response, Ms. Ahmed recalled that the Universal Declaration of Human Rights recognized that the family was the natural and fundamental group unit of society and was entitled to protection by society and the State. In addition, many associations sought to preserve the unity of the family nucleus and to protect older persons from certain practices that may lead to breakdown of the family by isolating the older person. Society had to leave behind some negative practices and promote positive values. The State must intervene to assist families caring for older persons, including by creating institutional structures.

38. Ms. Scheil-Adlung said that as long as there was a link between family care and ill-health, loss of income, impoverishment or burnout, there would not be such a thing as free choice for family carers. It was necessary to support family carers and establish certain limits. Family carers could not replace formal skilled workers, especially when it came to Alzheimer's disease or other diseases that made family care difficult. A formal care force should support family carers, as without it, no family would be able to give proper care to older persons.

39. Ms. Georgantzi stressed that most human rights treaties did not provide an explicit prohibition of discrimination on the ground of age, and that there were many gaps in the application of the existing instruments. For example, it was still possible under international law to force an older person to retire after reaching a certain age, and in some countries there were different systems of treatment for younger persons with disabilities and older persons with disabilities. Family was not necessarily the context where all older persons lived; nevertheless, families shared the obligation with States to provide care and support for the elderly. A convention on the rights of older persons would protect their human rights and support families as a whole, as the instruments for other groups had done. Such a convention should guarantee the right to autonomy and independence, and establish explicitly that age was not an admissible ground on which to limit their legal capacity.

C. The role of the family in promoting age-friendly environments

40. The Chief of the Population Unit at the Economic Commission for Europe, Vitalija Gaucaite Wittich, moderated the third session, which was focused on the role of the family in promoting age-friendly environments. She noted that family settings were becoming increasingly diverse, and that social contexts mattered when designing policies. Critical interdependencies between generations and between men and women within families would develop in daily interactions. Those interactions could be positive, but could also become a breeding ground for abuse and neglect of older persons. Ageism was one of the most socially normalized prejudices, which occurred in the family and also within the individuals themselves. Violence, abuse and neglect were extreme outcomes of ageism, which in most cases happened within the family. In that context, the moderator asked panellists to analyse those challenges, as well as the roles of the State and the family in promoting age-friendly environments and protecting and rights of older persons.

41. The Director of the Gerontology Programme at Brigham Young University, United States of America, Jeremy B. Yorgason, affirmed that, although many older adults faced discrimination in society in general, older persons who were isolated, dependent on others for their care, or had mental health, cognitive or emotional challenges, were at risk for mistreatment in some way. Those with poor or strained family relationships were at greater risk. Statistics showed that nearly half of the older adults in the United States experienced some limitation in activities of daily living. Individuals facing limitations who did not reside in long-term care facilities were likely to receive care from family members, most

often women. Although care services for older adults were growing, family caregivers provided the bulk of the care needed for older persons. It was also relevant to consider the expected amount of time that older persons might live without disability, since family often provided the care during those years of living with disability.

42. Research had found that family was one of the few institutions that did not segregate by age, and that young adults viewed older family members with less negative bias than they viewed older strangers. In addition, studies had indicated that when older spouses were in need of health care, both patients and their partners reported improved marital relationships. Still, although closeness may be one result of caring for an ill spouse or family member, caregiving was generally regarded as a stressful situation that placed great strain on family members. In consequence, overly strained family caregivers were more likely to violate the human rights of older recipients of care. Moreover, when abuse or violence had occurred in families in earlier years, it may be more likely to reoccur in later years.

43. The avenues for promoting age-friendly environments included addressing ageism within families through education. Quality of care improved when family caregivers were educated about the expected behaviours associated with dementia, and about how to communicate with and care for someone with diminished cognitive capacities in a kindly way. Beyond education, family caregivers benefited from emotional support from community support groups and other community resources. In addition, one of the greatest risk factors for mistreatment of older adults was social isolation. When a primary caregiver was the only person that a dependent older adult had contact with, the risk of mistreatment increased because of the increased strain and decreased outside surveillance. Involving secondary family caregivers and helping to coordinate their efforts could increase the safety of older adults and lessen burdens carried by primary caregivers. When there were multiple family caregivers, a natural check and balance occurred.

44. Although many community resources were available to caregivers, these did not focus on family relationships. Teaching families to communicate, resolve conflict, forgive past hurts and plan for the future could facilitate better care and lower the risk of abuse. Families could encourage a network of care providers for older family members, especially during times of care transition, such as when receiving a new diagnosis, during and after hospitalizations and during end-of-life care. Family members could support primary caregivers by facilitating their receipt of education, support and respite. Ultimately, families shared the responsibility to ensure quality care and thus protect the human rights of their ageing family members.

45. Marie Beaulieu, the Research Chair on Mistreatment of Older Adults at the Research Centre on Ageing, at Sherbrooke University, Canada, affirmed that age-friendly communities should have a positive approach in promoting the social inclusion of older adults, establish policies, programmes and actions to improve physical and social environments, and adopt a community-based strategy with an impact on individual well-being. She described the evolution of the definition of elder abuse and neglect, which was a social, public health and human rights problem. The World Health Organization had defined it as a single or a repeated act, or an absence of appropriate action, occurring within any relationship where there was an expectation of trust, which caused harm or distress to an older person.

46. The definition of elder abuse and neglect included violence. Mistreatment could be intentional, although many times it occurred unintentionally. The categories of abuse included physical, sexual, psychological, material and financial abuse, violation of rights, ageism and institutional mistreatment. Ageism consisted of negative or positive stereotypes, prejudice or discrimination against (or to the advantage of) older persons on the basis of their chronological age or their perceived age. It could be self-directed or other-directed, implicit or explicit, and expressed on different levels. It influenced everyone to varying degrees, by negative stereotypes and discourses. Those misguided assumptions led people to misinterpret various situations, which could ultimately lead to mistreatment.

47. The violation of rights occurred in all types of mistreatment, and implied the infringement of rights and freedoms. It included acts of violence, such as forced medical

treatment, as well as denial of the rights to choose, to vote, to privacy, to take risks, to receive phone calls or visitors, to practise religion and to express sexual identity. The concept of violation of rights also encompassed situations of neglect, including lack of information or misinformation regarding the rights of the older person, failure to assist the person in exercising their rights, and failure to recognize their capacities. The signs of violation of rights included preventing the older person from participating in making choices and decisions that affected his or her life, failure to respect his or her decisions, a family member answering on behalf of him or her, restricting visits or access to information, isolation, and complaints, among others.

48. A wellness approach to preventing mistreatment needed to focus on early detection and appropriate intervention, bringing together practitioners from various sectors to achieve a common goal. In addition, it was necessary to encourage and facilitate the reporting of cases, develop knowledge and improve knowledge transfer, and provide support for caregivers, including informal caregivers who were often family members. Several good practices at the national level were aimed at moving from countering abuse and neglect, to promoting well-being, respect for older persons' dignity, self-esteem, fulfilment, inclusion and security of the person. Governments should establish public policies and programmes that were proactive, that had a specific focus on mistreatment of older persons, and that were gender-specific, with participation from older adults' associations, practitioners and researchers, and with proper evaluation of their implementation.

49. In the ensuing dialogue, representatives of Bangladesh, Egypt, Maldives and the Russian Federation, and of AGE Platform Europe, Global Helping to Advance Women and Children, HelpAge International and Human Rights Watch, took the floor. One delegation said that respect for traditional family values could contribute to the promotion of and respect for human rights, and to the creation of a healthy family environment. States had an obligation to provide effective protection and support to the family. Another speaker stressed that older persons could make invaluable contributions to economic and social development, thanks to their knowledge, skills and experience. One delegation noted the importance of taking into account intergenerational relationships, which had been missing in the public debate. Some States described their national experience, including specialized services, social security systems, training to develop skills, legal protection, and the establishment of institutional bodies.

50. A representative from an NGO said that ageism was the only form of discrimination that was still widely accepted, and that it was the root cause of many human rights violations. Another speaker underlined the need to recognize that sexual violence and rape occurred within families — especially against widows, who faced social exclusion, segregation and social isolation. A youth representative recalled that the Human Rights Council had called upon States to promote opportunities for voluntary, constructive and regular interaction between generations in the family, in the workplace and in society. Young people and older persons alike benefited from intergenerational dialogue and interaction. Many speakers stressed the State responsibility in assuring older persons' enjoyment of their rights to privacy and a family life, non-discrimination, and freedom from violence, abuse and neglect in all settings. A dedicated international set of standards that articulated State obligations was necessary in order to promote an age-friendly environment.

51. In response, Mr. Yorgason warned that legislation that imposed compulsory care of older persons by families could lead to unpleasant situations and would be difficult to enforce. Regarding intergenerational relationships, research had shown that they were generally very positive for both grandparents and grandchildren. They should be encouraged and promoted, though people should be cautious that forcing such relationships could lead to negative outcomes. Sometimes parents and children did not get along, and grandchildren could become a healing connection between the other generations. Finally, he reflected on the difficulties of putting an actual value on elder care.

52. Ms. Beaulieu made a link between compulsory care and intergenerational solidarity. It was important to remind generations that they should have solidarity together, through education, values and shared points of view, however the imposition of family care could lead to elder abuse in some situations. When designing any policy, it was necessary to

consider the natural process of ageing in all its stages. In conclusion, carers of older persons had a demanding job, and often lacked proper training and proper pay. In high-income countries, immigrants often carried out that job, as nationals would not want to do it, which was another manifestation of age discrimination.

IV. Conclusions and recommendations

53. For the closing session, the Chair invited four panellists from previous sessions to make concluding remarks and recommendations on the way forward to achieve greater protection of the family and the human rights of older persons. They were asked to share their views from the perspective of States, national human rights institutions, United Nations human rights mechanisms, civil society and academia.

54. Ms. Gekht said that ageism was characteristic of countries where a deterioration of traditional family values was occurring. This had an impact on the respect for older generations. With regard to the situation of older persons who rights were violated, the State needed to make extra efforts, alongside social organizations. The State needed to create a network of institutions in the long term, but also social institutions that protected older persons. Social organizations and associations had an important role in providing legal aid and information to citizens when necessary, as well as in promoting the active involvement of older persons in society, including through physical activities and sport. The State should intervene to ensure proper qualifications for older persons so that they were competitive in the labour market. This should be a joint effort with social organizations and international forums. It would be key to change the balance of the relationships between younger and older generations nationally, but also to examine complementary measures to protect the rights of older persons.

55. Ms. Simbiri-Jaoko affirmed that many of the issues raised concerned the lack of normative frameworks at the international and regional levels, which had an impact at the national level. For national human rights institutions, the main contributions would be, within existing normative frameworks, to employ creative processes to monitor the rights of older persons, by making specific use of norms, whether soft or hard law. National human rights institutions should advocate for comprehensive and holistic approaches by State parties at the national, regional and international levels, in order to ensure that existing frameworks protected the rights of older persons.

56. Additionally, national human rights institutions with investigative and complaints handling capacity should develop tools that took into account the circumstances of older persons. They needed to go beyond looking at the appearances and instead look at the practicalities of how older persons experienced their independence, autonomy and freedom. National human rights institutions, together with State and non-State actors, should work towards facilitating intergenerational dialogue aimed at increasing knowledge and awareness by family members about their critical role in promoting and protecting the rights of older persons. Even in regions with a long history of care institutions, a human rights-based approach was missing. Older persons everywhere felt a lack of respect for their dignity. National human rights institutions had the challenge, and the opportunity, of working harder to strengthen and apply normative principles that clearly established the parameters for upholding the rights of older persons at the national, regional and international levels.

57. Ms. Kornfeld-Matte said that older persons as a group remained invisible and often voiceless. Radical changes, including to family patterns and lifestyles, but also the gradual erosion of the traditional multigenerational family environment, increasingly left older persons without families and without support. The mandate of the Independent Expert on the enjoyment of all human rights by older persons took into account the difficulties that older persons faced, and the fact that those difficulties required in-depth analysis and action in the light of the protection gaps. The

identification of best practices for implementing existing law had remained one of the priorities for her mandate.

58. Families were likely to contribute to the realization of the right to an adequate standard of living for their members. Older persons should have their preferences and best interests considered in all aspects of their lives. States should guarantee free and informed consent, and regulate conflicts of interest and undue influence. Legislation and policies should be aimed at preventing and detecting elder abuse, and should typify it as a criminal offence, and at protecting victims against reprisals. States should develop a strategy to raise awareness of the problem and inform older persons of their rights. It was important to assist families and other informal caregivers, including through training on human rights, health and human resources, through counselling, and by providing financial, social and psychological help, paying special attention to the role of older women as informal carers. There was a need for national home care and community-based care programmes as well as for social protection and poverty reduction programmes for older persons, especially in rural and remote areas.

59. The Sustainable Development Goals could help promote inclusive policies for older persons. However, references to older persons were rare in the Goals and the targets. Ensuring that no older person would be left behind would require recognizing the equal dignity of older persons, and recognizing and facilitating their contribution to society through the application of a rights-based approach. That lack of attention to older persons was a consequence of the absence of an international instrument on the rights of older persons, which could have formed a basis for integrating those issues into the 2030 Agenda for Sustainable Development. There was unanimous support for the need to strengthen the protection of the fundamental rights of older persons; nevertheless, continued divergences existed among stakeholders on the way to address the issue. Several proposals for new instruments and measures existed, including the elaboration of a new convention.

60. Mr. Yorgason said that governments could provide support for local ombudsman services, where government agents met on a regular basis with older adults living in facilities to ensure that their rights were being met and protected. Furthermore, when allegations of mistreatment were made, adult protection services could investigate the allegations and refer them to the police when necessary. In situations of neglect, ombudsman services could connect families with appropriate community resources. Ombudsman and adult protection services could expand efforts to target high-risk populations, for example through additional oversight where violence in the family had taken place, in cases of care recipients with mental health concerns or in cases of extreme poverty.

61. Human rights violations often occurred where older persons were isolated or when the care receiver and a single caregiver were isolated. In situations where an older adult needed help with finances, the involvement of multiple family members would strengthen accountability and prevent abuse. New technologies could also help connect primary family caregivers with secondary family caregivers, and bring together family members, in order to prevent isolation. In addition, family-centred care could target relationship processes. For example, where elder abuse had occurred, an intervention could take place by the State and other actors, similarly to when child abuse or neglect had occurred. There should be accountability and rehabilitation of family relations. Family-centred care also implied that treatments and interventions were personalized, and they were culture- and gender-sensitive.

62. Representatives of Belarus, of the Holy See, and of Global Helping to Advance Women and Children, HelpAge International, Human Rights Watch and Vie Montante International intervened from the floor. One State representative reaffirmed the traditional role played by the family, which was the fundamental element supporting and protecting the rights of older persons in society. Yet, governments played a fundamental role, guaranteeing support to families that supported older persons, and should uphold guarantees protecting the rights of older persons, including social integration. Another delegation stressed the need to

strengthen solidarity among generations and encourage mutually responsible relationships between younger and older persons. As the natural and fundamental unit of society, where the principle of solidarity was lived out on a daily basis, the family was entitled to protection by society and the State.

63. A joint statement by non-governmental organizations called upon States to support intergenerational connections as a key part of social cohesion and of the fight against isolation, and also as a means of transmitting social and cultural values. States should ensure that persons ageing with disabilities had the best possible conditions of housing and support. One speaker said that the family relationship between older parents and adult children was absent in legislation on family reunification for refugees, and that narrow definitions of family and onerous conditions and waiting periods led to discrimination against older persons. Another speaker stressed that ageism was a universal prejudice and a discriminatory social norm that demanded a universal response, and that a clearly articulated prohibition of ageism and age discrimination in a new convention was essential.

64. Finally, one speaker stated that it was crucial to involve older persons in discussions regarding their rights, and to address their capabilities to contribute to society and their responsibilities in society. In response, all panellists agreed that the participation and involvement of older persons was crucial.